

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 875

PERMIT 395

LICENSE 2289

ORDER CORRECTING AMOUNT OF STORAGE CAPACITY
AND AMENDING LICENSE

WHEREAS:

1. License 2289 was issued to Roger V. and Marjorie A. Ducasse on September 4, 1941 pursuant to Application 875, and filed with the County Recorder of Lassen County of September 10, 1941.
2. The permit was subsequently assigned to R. C. Roberts.
3. A compliance inspection was made on September 21, 1985 and it was determined that the description of the reservoir capacity of 770 acre-feet should be corrected to 570 acre-feet. The correction is needed to conform the licensed amount of water collected to storage in the reservoir with the capacity delineated on the area-capacity diagram of the E-map.
4. The State Water Resources Control Board has determined that said correction in the description of the reservoir capacity will not initiate a new right nor operate to the injury of any other lawful user of water and that good and sufficient cause has been shown for said correction.
5. The only remaining purpose of use of this Reservoir is non consumptive in nature and it is Board policy to condition such use by inclusion of standard permit Term 41.
6. The License condition pertaining to the continuing authority of the Board does not conform to the current common law public trust doctrine as contained in Title 23, California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. The License Condition limiting the amount of water actually used shall be corrected to read:

Five hundred seventy (570) acre-feet per annum to be collected to storage from about January 1 to about May 1 of each year with the maximum not to exceed 310 acre-feet per annum from Schott Creek and 460 acre-feet per annum from Antelope Canyon Creek.

2. Standard License Term 41 be added as follows:

After the initial filling of the reservoir, licensee's right under this license extends only to water necessary to keep the storage reservoir full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair.

(0000041)

3. The continuing authority provision of the license be amended to read:


Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: JULY 21 1988


for Walter G. Pettit, Chief
Division of Water Rights

6

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 875

PERMIT 395

LICENSE 2289

ORDER ALLOWING CORRECTION OF DESCRIPTION OF POINTS
OF DIVERSION AND CHANGE IN CHARACTER OF USE AND
PLACE OF USE

Licensees having established to the satisfaction of the State Engineer that the correction of description of points of diversion and change in character of use and place of use under Application 875, Permit 395, License 2289 for which petitions were submitted on November 12, 1952 and September 28, 1953 will not operate to the injury of any other legal user of water, the State Engineer so finds, and

IT IS ORDERED that permission be and the same is hereby granted to correct the description of points of diversion under said Application 875, Permit 395, License 2289 to read as follows, to wit:

POINT NO. 1 - SCHOTT CREEK - SOUTH THIRTY-THREE DEGREES FIVE MINUTES EAST ($S33^{\circ}05'E$) ONE THOUSAND SIX HUNDRED TWENTY-SEVEN (1627) FEET FROM $W\frac{1}{4}$ CORNER OF SECTION 12, T 34 N, R 13 E, MDB&M, BEING WITHIN $SW\frac{1}{4}$ OF $SW\frac{1}{4}$ OF SAID SECTION 12, AND
POINT NO. 2 - ANTELOPE CANYON CREEK - SOUTH FIFTY-THREE DEGREES FIVE MINUTES WEST ($S53^{\circ}05'W$) ONE THOUSAND THREE HUNDRED FORTY (1340) FEET FROM $E\frac{1}{4}$ CORNER OF SECTION 3, T 34 N, R 13 E, MDB&M, BEING WITHIN $NE\frac{1}{4}$ OF $SE\frac{1}{4}$ OF SAID SECTION 3, AND

IT IS FURTHER ORDERED that permission be and the same is hereby granted to change the character of use under said Application 875, Permit 395, License 2289 to character of use as follows, to wit:

STOCK-WATERING PURPOSES, AND

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 875

PERMIT 395

LICENSE 2289

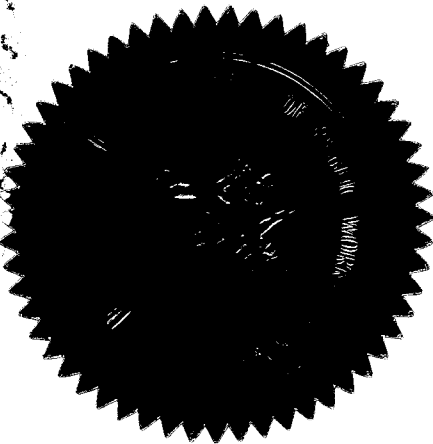
IT IS FURTHER ORDERED that permission be and the same is hereby granted to change the place of use under said Application 875, Permit 395, License 2289 to a place of use described as follows, to wit:

WITHIN NE $\frac{1}{4}$ OF SE $\frac{1}{4}$ OF SECTION 3, T 34 N, R 13 E, MDB&M.
SE $\frac{1}{4}$ OF SE $\frac{1}{4}$ OF SECTION 3, T 34 N, R 13 E, MDB&M.
SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 2, T 34 N, R 13 E, MDB&M.
SE $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 2, T 34 N, R 13 E, MDB&M.
NW $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SECTION 11, T 34 N, R 13 E, MDB&M.
NE $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SECTION 11, T 34 N, R 13 E, MDB&M.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 5th day of November, 1953.

A. D. EDMONSTON, STATE ENGINEER

By Harvey O. Banks
Harvey O. Banks
Assistant State Engineer





STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE **2289**

PERMIT **395**

APPLICATION **875**

THIS IS TO CERTIFY, That **Roger V. and Marjorie A. Ducasse, Terman, California**

Notice of Assignment (Over)

of Water Resources of California of a right to the use of the waters of **Schott Creek and Antelope Canyon**
Creek in Lassen County

tributary of **Madeline Plains**

for the purpose of **irrigation use**

under Permit **395** of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **January 2, 1918;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **three hundred ten (310) acre-feet per annum from Schott Creek and four hundred sixty (460) acre-feet per annum from Antelope Canyon Creek, a total of seven hundred seventy (770) acre-feet per annum storage to be collected from about January 1 to about May 1 of each season.**

The maximum rate of diversion to storage from Schott Creek not to exceed **sixty (60) cubic feet per second.**

The point of diversion of such water are located (Schott Creek) South thirty three degrees, five minutes East (S. 33° 05' E.) sixteen hundred twenty seven and three tenths (1627.3) feet from the West one-quarter corner of Section 12, T 34 N, R 13 E, M.D.B. & M., being within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 12; and (Antelope Canyon Creek) South sixteen degrees, thirty nine minutes West (S. 16° 39' W.) six hundred sixty three and five tenths (663.5) feet from the East one-quarter corner of Section 3, T 34 N, R 13 E, M.D.B. & M., being within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 3.

A description of the lands or the place where such water is put to beneficial use is as follows: **irrigation of**

21.0 acres	within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 3, T 34 N, R 13 E, M.D.B. & M.
40.0 "	" " SE $\frac{1}{4}$ of NE $\frac{1}{4}$ " " " "
10.0 "	" " NE $\frac{1}{4}$ of SE $\frac{1}{4}$ " " " "
0.5 acre	" " NW $\frac{1}{4}$ of SE $\frac{1}{4}$ " " " "
40.0 acres	" Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$) " " " "
40.0 "	" Lot 2 (NW $\frac{1}{4}$ NE $\frac{1}{4}$) " " " "

151.5 acres total

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Division of Water Resources in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Division of Water Resources.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes of 1915, as amended, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that at any time after the expiration of twenty years after the granting of a license, the state or any city, county and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, county and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, county and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and provided, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public

Works of the State of California, this 4th
day of September, 1941

EDWARD HYATT

State Engineer

By

Harold Conkling
Deputy



2/8/50

RECEIVED NOTICE OF ASSIGNMENT TO

D. H. Monroe & Son

4-8-61

RECEIVED NOTICE OF ASSIGNMENT TO

John A. I. Galvin

1/26/68

RECEIVED NOTICE OF ASSIGNMENT TO

Monarch Investment Company

12-23-71

RECEIVED NOTICE OF ASSIGNMENT TO

Occidental Petroleum

Land & Development Corporation

6-4-75

RECEIVED NOTICE OF ASSIGNMENT TO

Occidental Petroleum, Inc.

11-13-85 as per to R.C. Roberts

LICENSE

2209

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE
TO APPROPRIATE WATER

ISSUED TO

Roger Y. and Marjorie A. Rasmussen

DATED

September 4, 1941